

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,

Plaintiff,

-vs-

TIMOTHY DEFOGGI,

Defendant.

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Case No. 8:13CR105

DEFENDANT'S MOTION TO SEVER

COMES NOW the Defendant, by and through counsel, and hereby moves the Court for an Order severing his case from any other defendants and granting him a separate trial on all charges. In support of this Motion, the Defendant asserts the following:

1. The government has not produced or alleged any evidence indicating that there was any interaction between the Defendant and his co-defendant.
2. The government has not alleged any evidence that the defendants participated in the same series of acts or transactions. There is no connection, criminal or otherwise, between the co-defendants beyond alleged use of a website.
3. The government has not alleged any evidence that the defendants in this case engaged in a joint enterprise or assisted each other in any of the offenses alleged.

4. The joinder of any other defendants is unfairly prejudicial to the Defendant and would deprive him of a fair trial.

WHEREFORE, the Defendant moves the Court to sever his case from any co-defendants and grant him a separate trial herein.

Respectfully submitted,
Timothy Defoggi, Defendant

/s/ John S. Berry
John S. Berry, #22627
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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served upon Michael Norris, Assistant U.S. Attorney and Keith A. Becker, U.S. Department of Justice, by electronically serving a copy of the same to both via CM/ECF, on this the 6th day of March, 2014.

/s/ John S. Berry
John S. Berry, #22627